

U.S. Department of Labor

Office of Administrative Law Judges
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DATE: September 1, 2000

CASE NO: 2000-ERA-21

In the Matter of

MARIE E. JENNEWEIN
Complainant

v.

ABB COMBUSTION ENGINEERING
NUCLEAR, INC.
Respondent

RECOMMENDED DECISION AND ORDER
APPROVING SETTLEMENT AGREEMENT
AND
DISMISSING COMPLAINT WITH PREJUDICE

This is a proceeding arising under the Energy Reorganization Act ("ERA"), 42 U.S.C. § 5851, and its implementing regulations at 29 C.F.R. Part 24. On August 29, 2000, the Complainant submitted a duly executed "Motion to Dismiss With Prejudice Based on Voluntary Settlement" along with a Settlement Agreement and General Release executed by the parties. Although Part 24 regulations do not contain any provision relating to a dismissal of a complaint by voluntary settlement, under the Rules of Practice and Procedure for Administrative Hearings before the Office of Administrative Law Judges, 29 C.F.R. Part 18, which are controlling in the absence of a specific provision at Part 24, the parties in a proceeding before an administrative law judge may reach agreement on their own. 29 C.F.R. Part 18.9 (a)-(c).

Under the terms of the instant Settlement Agreement, the Respondent agrees to pay Complainant and his attorneys stated sums in consideration of releases and discharges stated therein. With respect to Paragraphs 5 & 6 of the Settlement Agreement, which provides that the parties shall keep the terms of the settlement confidential, it is noted that they have attempted to comply with applicable case law by specifically providing that the confidentiality provision does not restrict disclosure where required by law. *See McGlynn v. Pulsair, Inc.*, 93-CAA-2 (Sec'y June 28, 1993).

Having fully reviewed the Settlement Agreement in accordance with applicable precedent, I find that its terms are a fair, adequate, and reasonable settlement of the complaint. *See Thompson v. U. S. Department of Labor*, 885 F.2d 551 (9th Cir. 1989); *Bonanno v. Stone & Weber Engineering Corp.*, 97-ERA-33 (ARB June 27, 1997).

Accordingly, the Complainant's Motion of the parties is GRANTED, and it is hereby RECOMMENDED that the Settlement Agreement between Complainant Marie Jennewein and Respondent ABB Combustion Engineering Nuclear Power, Inc., be APPROVED and that the instant complaint be DISMISSED WITH PREJUDICE.

MICHAEL P. LESNIAK
Administrative Law Judge

MPL:mr

NOTICE: This Recommended Decision and Order will automatically become the final order of the Secretary unless, pursuant to 29 C.F.R. § 24.8, a petition for review is timely filed with the Administrative Review Board, United States Department of Labor, Room S-4309, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Such petition for review must be received by the Administrative Review Board within ten business days of the date of this Recommended Decision and Order, and shall be served on all parties and on the Chief Administrative Law Judge. *See* 29 C.F.R. §§ 24.8 and 24.9, as amended by 63 Fed. Reg. 6614 (1998).

**UNITED STATES DEPARTMENT OF LABOR
OFFICE OF ADMINISTRATIVE LAW JUDGES**

<i>CASE NO.</i>	<i>2000-ERA-21</i>
<i>CASE CAPTION:</i>	<i>MARIE E. JENNEWEIN v. ABB COMBUSTIION ENGINEERING NUCLEAR, INC.</i>
<i>TITLE OF DOCUMENT:</i>	<i>RECOMMENDED DECISION AND ORDER APPROVING SETTLEMENT AGREEMENT AND DISMISSING COMPLAINT WITH PREJUDICE</i>
<i>DATE OF DOCUMENT:</i>	<i>SEPTEMBER 1, 2000</i>
<i>JUDGE:</i>	<i>MICHAEL P. LESNIAK</i>

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